

## **IC 6-3.1-11**

### **Chapter 11. Industrial Recovery Tax Credit**

#### **IC 6-3.1-11-1**

##### **"Applicable percentage" defined**

Sec. 1. As used in this chapter, "applicable percentage" means the percentage determined as follows:

- (1) If a plant that is located on an industrial recovery site was placed in service at least twenty (20) years ago but less than thirty (30) years ago, the applicable percentage is fifteen percent (15%).
- (2) If a plant that is located on an industrial recovery site was placed in service at least thirty (30) years ago but less than forty (40) years ago, the applicable percentage is twenty percent (20%).
- (3) If a plant that is located on an industrial recovery site was placed in service at least forty (40) years ago, the applicable percentage is twenty-five percent (25%).

The time that has expired since a plant was placed in service shall be determined as of the date that an application is filed with the board for designation of the location as an industrial recovery site under this chapter.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-2**

##### **"Board" defined**

Sec. 2. As used in this chapter, "board" means the enterprise zone board created under IC 4-4-6.1.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-3**

##### **"Executive" defined**

Sec. 3. As used in this chapter, "executive" has the meaning set forth in IC 36-1-2-5.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-4**

##### **"Floor space" defined**

Sec. 4. As used in this chapter, "floor space" means the usable interior floor space of a building.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-5**

##### **"Industrial recovery site" defined**

Sec. 5. As used in this chapter, "industrial recovery site" means an industrial recovery site designated under this chapter.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-6**

##### **"Legislative body" defined**

Sec. 6. As used in this chapter, "legislative body" has the meaning set forth in IC 36-1-2-9.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-7**

##### **"Municipality" defined**

Sec. 7. As used in this chapter, "municipality" has the meaning set forth in IC 36-1-2-11.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-8**

##### **"Placed in service" defined**

Sec. 8. As used in this chapter, "placed in service" means that property is placed in a condition or state of readiness and availability for a specifically assigned function. In the case of a plant comprised of a complex of buildings, the entire plant shall be considered to have been placed in service as of the date that a building was placed in service if the building has floor space that, when aggregated with the floor space of all buildings in the complex placed in service on earlier dates, exceeds fifty percent (50%) of the total floor space of all buildings in the complex.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-9**

##### **"Plant" defined**

Sec. 9. As used in this chapter, "plant" means a building or complex of buildings used, or designed and constructed for use, in production, manufacturing, fabrication, assembly, processing, refining, finishing, or warehousing of tangible personal property, whether the tangible personal property is or was for sale to third parties or for use by the owner in the owner's business.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-10**

##### **"Qualified investment" defined**

Sec. 10. As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for rehabilitation of property located within an industrial recovery site under a plan contained in an application approved by the board under section 18 of this chapter. An expenditure for purposes or by persons not covered by such a plan may not be a qualified investment.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-11**

##### **"Rehabilitation" defined**

Sec. 11. As used in this chapter, "rehabilitation" means the remodeling, repair, or betterment of real property in any manner or any enlargement or extension of real property.

*As added by P.L.379-1987(ss), SEC.11.*

#### **IC 6-3.1-11-12a**

##### **"State tax liability" defined**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 12. As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5-10 (the bank tax);
- (5) IC 6-5-11 (the savings and loan association tax);
- (6) IC 27-1-18-2 (the insurance premiums tax); and
- (7) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

*As added by P.L.379-1987(ss), SEC.11. Amended by P.L.80-1989, SEC.10; P.L.347-1989(ss), SEC.16.*

### **IC 6-3.1-11-12b**

#### **"State tax liability" defined**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 12. As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

*As added by P.L.379-1987(ss), SEC.11. Amended by P.L.80-1989, SEC.10; P.L.347-1989(ss), SEC.16; P.L.192-2002(ss), SEC.101.*

### **IC 6-3.1-11-13**

#### **"Taxpayer" defined**

Sec. 13. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that has any state tax liability and that is the owner or developer of an industrial recovery site. The term includes a lessee that is assigned some part of a credit under section 16(c) of this chapter.

*As added by P.L.379-1987(ss), SEC.11. Amended by P.L.8-1993, SEC.89; P.L.8-1996, SEC.9.*

### **IC 6-3.1-11-14**

#### **"Vacant" defined**

Sec. 14. As used in this chapter, "vacant" means with respect to a plant that at least seventy-five percent (75%) of the plant placed in service is not used to carry on production, manufacturing, assembly, processing, refining, finishing, or warehousing of tangible personal property.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-15**

#### **"Vacant industrial facility" defined**

Sec. 15. As used in this chapter, "vacant industrial facility" means a tract of land on which there is located a plant that:

- (1) has at least three hundred thousand (300,000) square feet of floor space;
- (2) was placed in service at least twenty (20) years ago; and
- (3) has been vacant for two (2) or more years unless the tract and the plant are owned by a municipality or a county, in which case the two (2) year requirement does not apply.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-16**

#### **Credit for qualified investment; computation of amount; assignment of credit**

Sec. 16. (a) Subject to section 21 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by the applicable percentage.

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of the industrial recovery site. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department of revenue. The taxpayer shall not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

*As added by P.L.379-1987(ss), SEC.11. Amended by P.L.8-1996, SEC.10.*

### **IC 6-3.1-11-17**

#### **Carryover of excess credit; carryback or refund of unused credit barred**

Sec. 17. (a) If the amount determined under section 16(b) of this chapter for a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the immediately following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-18**

#### **Designation of vacant industrial facility as an industrial recovery**

### **site; application; requisites; procedures**

Sec. 18. (a) After approval by ordinance or resolution of the legislative body, the executive of any municipality may submit an application to the board requesting that a vacant industrial facility within the municipality be designated as an industrial recovery site. After approval by resolution of the legislative body, the executive of any county may submit an application to the board requesting that a vacant industrial facility within the county, but not within any municipality, be designated as an industrial recovery site. In addition to any other information required by the board, the application shall include a description of the plan proposed by the municipality or county for development and use of the vacant industrial facility.

(b) If the property described in the application submitted to the board meets the definition of a vacant industrial facility as of the date of filing of the application, the board shall:

- (1) evaluate the application;
- (2) arrive at a decision based on the factors set forth in section 19 of this chapter; and
- (3) either designate the property as an industrial recovery site or reject the application.

(c) If the board determines that:

- (1) a substantial reduction or cessation of operations at a facility in Indiana after January 1, 1987, has created a vacant industrial facility; and
- (2) the operations formerly located at that facility have been relocated to a specific site or sites outside the United States;

the facility may be designated as an industrial recovery site only if it has been donated or sold to the municipality. Such a facility may be designated as an industrial recovery site whether it is owned by the municipality or by a taxpayer who acquired it from the municipality after the donation or sale.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-19**

#### **Evaluation of applications; factors considered**

Sec. 19. The board shall consider the following factors in evaluating applications filed under this chapter:

- (1) The level of distress in the surrounding community caused by the loss of jobs at the vacant industrial facility.
- (2) The desirability of the intended use of the vacant industrial facility under the plan proposed by the municipality or county and the likelihood that the implementation of the plan will improve the economic and employment conditions in the surrounding community.
- (3) Evidence of support for the designation by residents, businesses, and private organizations in the surrounding community.
- (4) Evidence of a commitment by private or governmental entities to provide financial assistance in implementing the plan proposed by the municipality or county, including the application of IC 36-7-12, IC 36-7-13, IC 36-7-14, or IC 36-7-15.1 to assist in

the financing of improvements or redevelopment activities benefiting the vacant industrial facility.

(5) Evidence of efforts by the municipality or county to implement the proposed plan without additional financial assistance from the state.

(6) Whether the industrial recovery site is within an economic revitalization area designated under IC 6-1.1-12.1.

(7) Whether action has been taken by the metropolitan development commission or the legislative body of the municipality or county having jurisdiction over the proposed industrial recovery site to make the property tax credit under IC 6-1.1-20.7 available to persons owning inventory located within the industrial recovery site and meeting the other conditions established by IC 6-1.1-20.7.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-20**

#### **Contingent conditions upon designation; revocation of approval for failure to comply**

Sec. 20. The board may provide that the industrial recovery site designation is contingent on the development and use of the vacant industrial facility in substantial compliance with the plan described in the application submitted under section 18 of this chapter. The board may revoke its approval of an industrial recovery site designation for failure to comply with these conditions.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-21**

#### **Disqualification to claim credit due to substantial reduction or cessation of operations in Indiana; determination**

Sec. 21. A taxpayer is not entitled to claim the credit provided by this chapter to the extent that it substantially reduces or ceases its operations in Indiana in order to relocate them within the industrial recovery site. A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations shall apply to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the board.

*As added by P.L.379-1987(ss), SEC.11.*

### **IC 6-3.1-11-22a**

#### **Application of credit against taxes owed; order; computation**

*Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.*

Sec. 22. (a) A credit to which a taxpayer is entitled under this chapter shall be applied against taxes owed by the taxpayer in the following order:

(1) Against the taxpayer's gross income tax liability (IC 6-2.1) for the taxable year.

(2) Against the taxpayer's adjusted gross income tax liability (IC

6-3-1 through IC 6-3-7) for the taxable year.

(3) Against the taxpayer's supplemental net income tax liability (IC 6-3-8) for the taxable year.

(4) Against the taxpayer's bank tax liability (IC 6-5-10) or savings and loan association tax liability (IC 6-5-11) for the taxable year.

(5) Against the taxpayer's insurance premiums tax liability (IC 27-1-18-2) for the taxable year.

(6) Against the taxpayer's financial institutions tax (IC 6-5.5) for the taxable year.

(b) Whenever the tax paid by the taxpayer under any of the tax provisions listed in subsection (a) is a credit against the liability or a deduction in determining the tax base under another Indiana tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this chapter.

*As added by P.L.379-1987(ss), SEC.11. Amended by P.L.80-1989, SEC.11; P.L.347-1989(ss), SEC.17; P.L.1-1990, SEC.79.*

### **IC 6-3.1-11-22b**

#### **Application of credit against taxes owed; order; computation**

*Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.*

Sec. 22. (a) A credit to which a taxpayer is entitled under this chapter shall be applied against taxes owed by the taxpayer in the following order:

(1) Against the taxpayer's adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for the taxable year. liability

(2) Against the taxpayer's insurance premiums tax liability (IC 27-1-18-2) for the taxable year.

(3) Against the taxpayer's financial institutions tax (IC 6-5.5) for the taxable year.

(b) Whenever the tax paid by the taxpayer under any of the tax provisions listed in subsection (a) is a credit against the liability or a deduction in determining the tax base under another Indiana tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this chapter.

*As added by P.L.379-1987(ss), SEC.11. Amended by P.L.80-1989, SEC.11; P.L.347-1989(ss), SEC.17; P.L.1-1990, SEC.79; P.L.192-2002(ss), SEC.102.*

### **IC 6-3.1-11-23**

#### **Claiming of credit on annual tax return; certification; required information**

Sec. 23. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certification of the board stating the percentage of credit allowable under this chapter and all other information that the department determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an expenditure was for a qualified investment.

*As added by P.L.379-1987(ss), SEC.11.*